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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/786,631  | 02/26/2004  | Paul Lapstun         | NPT037US            | 9573             |
| 24011 7590 07/14/2008<br>SILVERBROOK RESEARCH PTY LTD<br>393 DARLING STREET<br>BALMAIN, 2041<br>AUSTRALIA |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| CHEN, HUO LONG  |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 2625  |             |                      |                     |                  |
| MAIL DATE   |             | DELIVERY MODE        |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# **Notice of Non-Compliant Amendment (37 CFR 1.121)**

Application No.

10/786,631

Examiner

HUO LONG CHEN

Applicant(s)

LAPSTUN ET AL.

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 19 June 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

## **TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an **after-final** amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Mark Zimmerman/ SPE 2625

Legal Instruments Examiner (LIE), if applicable

Telephone No.



Continuation of 5 Other: With respect to the Remarks/Arguments received on June 19, 2008, the elected invention has been noticed. However, since the applicant's request withdrawing the claimed amendment on April 17, 2008 was not entered. It is office practice to not withdraw an amendment or reinstate canceled claims. The elected claims 28 and 49-52 were canceled on both claimed amendments on April 17, 2008 and April 16, 2008, as a result, the election of the invention is invalid.

Applicant needs to submit a new claimed amendment which cancels claims 1-54 and adds new claims which starts with claim number 58. Examiner also notices that original claims 55-57 are still being pending but their dependency claim 53 has been canceled. Appropriate correction is required.

The election of the invention should be made from the new claims. For example, assuming that the elected group claims 28-30 and 49-54 on June 19, 2008 are the original claims of the application filed on February 26, 2004, they should be given a new set of claim numbers 58-60 and 61-64 on the new claimed amendment and the claims 58-64 should be elected.